

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONNA FOSTER,

Plaintiff,

Case No. 15-cv-11368
Hon. Matthew F. Leitman

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**ORDER (1) CONSTRUING “PLAINTIFF’S MOTION FOR SUMMARY
JUDGMENT” (ECF #26) AS A MOTION FOR RECONSIDERATION AND
(2) DENYING MOTION FOR RECONSIDERATION**

In this action, Plaintiff Donna Foster (“Foster”) challenged the denial of her applications for Disability Insurance Benefits and Supplemental Security Income under the Social Security Act. (*See* Compl., ECF #1.) On July 15, 2016, the assigned Magistrate Judge issued a Report and Recommendation with respect to cross-motions for summary judgment both parties had filed (the “R&R”). (*See* ECF #23.) In the R&R, the Magistrate Judge concluded that the “the determination that [Foster] was not disabled...should not be disturbed by this Court.” (*Id.* at 20, ECF #23 at 20, Pg. ID 1371.) The Magistrate Judge thus recommended that the Court grant Defendant’s motion for summary judgment and deny Foster’s motion. (*See id.*)

The parties had fourteen days to file specific objections to the R&R with the Court. (*See id.* at 20-21, ECF #23 at 20-21, Pg. ID 1371-72.) The Magistrate Judge told the parties that if they did not file objections within that time, they “waiv[ed] any further right of appeal.” (*Id.* at 20, Pg. ID 1372.) The Magistrate Judge also cautioned the parties that the “[f]iling of objections which raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation.” (*Id.* at 21, Pg. ID 1373.)

The Court did not receive any objections from Foster within that fourteen day period. On August 10, 2016 – twenty-six days after the Magistrate Judge issued the R&R and still not having received any objections from Foster – the Court adopted the Magistrate Judge’s recommendation, granted Defendant’s motion, denied Foster’s motion, and entered judgment in favor of Defendant. (*See* ECF ## 24, 25.)

Thereafter, Foster contacted the Court by telephone and insisted that she had, in fact, mailed objections to the R&R to the Court within the fourteen day time period. The Court never received those objections. The Court informed Foster, who is proceeding *pro se*, that if she re-sent her objections to the Court, it would construe that filing as a motion for reconsideration of the Court’s August 10 Order. The Court has now received Foster’s objections (titled “Plaintiff’s Motion for Summary Judgment”). (*See* ECF #26.)

The objections do not address any specific provision of the R&R or present any argument for how the Magistrate Judge erred. Instead, the objections largely make the same arguments that the Magistrate Judge previously considered (and rejected) – such as Foster’s arguments that the Defendant wrongly ignored the conclusions of the consulting physicians (*see* R&R at 18-19, ECF #23 at 18-19, Pg. ID 1369-70) and that she suffers from many disabling conditions including depression and migraine headaches. (*See* ECF #26 at 2-3, Pg. ID 1377-78.)

Foster’s objections are insufficient and do not provide any basis to reject the Magistrate Judge’s recommended disposition of this action. Indeed, “[a]n ‘objection’ that does nothing more than state a disagreement with a magistrate’s suggested resolution, or simply summarizes what has been presented before, is not an ‘objection’ as that term is used in this context.” *Aldrich v. Bock*, 327 F. Supp. 2d 743, 747 (E.D. Mich. 2004). *See also Zimmerman v. Cason*, 354 Fed. App’x 228, 230 (6th Cir. 2009) (“A general objection to the entirety of the magistrate’s report has the same effects as would failure to object. The district court’s attention is not focused on any specific issues for review, thereby making the initial reference to the magistrate useless. [...] The duplication of time and effort wastes judicial resources rather than saving them, and runs contrary to the purposes of the Magistrates Act”). Simply put, Foster has not persuaded the Court that the Magistrate Judge’s recommended disposition of this action was in error.

Accordingly, for the reasons stated above, **IT IS HEREBY ORDERED** that (1) Foster's "motion for summary judgment" (ECF #26) is construed as a motion for reconsideration of the Court's August 10, 2016, Order granting Defendant's motion for summary judgment (ECF #24) and (2) Foster's motion for reconsideration is **DENIED**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: August 23, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 23, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113